

104TH CONGRESS
1ST SESSION

S. 1234

To reduce delinquencies and to improve debt-collection activities
Governmentwide, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 12 (legislative day, SEPTEMBER 5), 1995

Mr. HARKIN introduced the following bill; which was read twice and referred
to the Committee on Finance

A BILL

To reduce delinquencies and to improve debt-collection
activities Governmentwide, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 101. SHORT TITLE.**

4 This Act may be cited as the “Debt Collection Im-
5 provement Act of 1995”.

6 **SEC. 102. EFFECTIVE DATE.**

7 (a) Except as provided in subsection (b), the provi-
8 sions of this Act and the amendments made by this Act
9 shall become effective October 1, 1995.

1 (b) The amendments made by title III of this Act
 2 shall become effective for levies issued after the date of
 3 enactment of this Act.

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TITLE I—GENERAL DEBT COLLECTION INITIATIVES

Subchapter A—General Offset Authority

SEC. 201. ENHANCEMENT OF ADMINISTRATIVE OFFSET AUTHORITY.

(a) Section 3701(c) of title 31, United States Code, is amended to read as follows:

“(c) In sections 3716 and 3717 of this title, the term ‘person’ does not include an agency of the United States Government, or of a unit of general local government.”.

(b) Section 3716 of title 31, United States Code, is amended—

(1) by amending subsection (b) to read as follows:

“(b) Before collecting a claim by administrative offset, the head of an executive, legislative, or judicial agency must either—

“(1) adopt regulations on collecting by administrative offset promulgated by the Department of

1 Justice, the General Accounting Office and/or the
2 Department of the Treasury without change; or

3 “(2) prescribe independent regulations on col-
4 lecting by administrative offset consistent with the
5 regulations promulgated under paragraph (1).”;

6 (2) by amending subsection (c)(2) to read as
7 follows:

8 “(2) when a statute explicitly prohibits using
9 administrative ‘offset’ or ‘setoff’ to collect the claim
10 or type of claim involved.”;

11 (3) by redesignating subsection (c) as sub-
12 section (d); and

13 (4) by inserting after subsection (b) the follow-
14 ing new subsection:

15 “(c)(1)(A) Except as provided in subparagraph (B)
16 or (C), a disbursing official of the Department of the
17 Treasury, the Department of Defense, the United States
18 Postal Service, or any disbursing official of the United
19 States designated by the Secretary of the Treasury, is au-
20 thorized to offset the amount of a payment which a pay-
21 ment certifying agency has certified to the disbursing offi-
22 cial for disbursement by an amount equal to the amount
23 of a claim which a creditor agency has certified to the Sec-
24 retary of the Treasury pursuant to this subsection.

1 “(B) An agency that designates disbursing officials
2 pursuant to section 3321(c) of this title is not required
3 to certify claims arising out of its operations to the Sec-
4 retary of the Treasury before such agency’s disbursing of-
5 ficials offset such claims.

6 “(C) Payments certified by the Department of Edu-
7 cation under a program administered by the Secretary of
8 Education under title IV of the Higher Education Act of
9 1965, as amended, shall not be subject to offset under this
10 subsection.

11 “(2) Neither the disbursing official nor the payment
12 certifying agency shall be liable—

13 “(A) for the amount of the offset on the basis
14 that the underlying obligation, represented by the
15 payment before the offset was taken, was not satis-
16 fied; or

17 “(B) for failure to provide timely notice under
18 paragraph (8).

19 “(3)(A) Notwithstanding any other provision of law
20 (including sections 207 and 1631(d)(1) of the Act of Au-
21 gust 14, 1935 (42 U.S.C. 407 and 1383(d)(1)), section
22 413(b) of Public Law 91–173 (30 U.S.C. 923(b)), and
23 section 14 of the Act of August 29, 1935 (45 U.S.C.
24 231m)), 15 percent of payments due under the Social Se-
25 curity Act, part B of the Black Lung Benefits Act, or

1 under any law administered by the Railroad Retirement
2 Board, or as compensation or benefits arising from service
3 of an individual with the United States Government, shall
4 be subject to offset under this section.

5 “(B) The Secretary of the Treasury shall exempt
6 means-tested programs when notified by the head of the
7 respective agency. The Secretary may exempt other pay-
8 ments from offset under this subsection upon the written
9 request of the head of a payment certifying agency. A
10 written request for exemption of other payments must pro-
11 vide justification for the exemption under the standards
12 prescribed by the Secretary. Such standards shall give due
13 consideration to whether offset would tend to interfere
14 substantially with or defeat the purposes of the payment
15 certifying agency’s program.

16 “(C) The provisions of sections 205(b)(1) and
17 1631(c)(1) of the Social Security Act shall not apply to
18 any offset executed pursuant to this section against bene-
19 fits authorized by either title II or title XVI of the Social
20 Security Act.

21 “(4) The Secretary of the Treasury is authorized to
22 charge a fee sufficient to cover the full cost of implement-
23 ing this subsection. The fee may be collected either by the
24 retention of a portion of amounts collected pursuant to
25 this subsection, or by billing the agency referring or trans-

1 ferring the claim. Fees charged to the agencies shall be
2 based only on actual offsets completed. Fees charged
3 under this subsection concerning delinquent claims may
4 be considered as costs pursuant to section 3717(e) of this
5 title. Fees charged under this subsection shall be deposited
6 into the 'Account' determined by the Secretary of the
7 Treasury in accordance with section 3711(g) of this title,
8 and shall be collected and accounted for in accordance
9 with the provisions of that section.

10 “(5) The Secretary of the Treasury may disclose to
11 a creditor agency the current address of any payee and
12 any data related to certifying and authorizing such pay-
13 ment in accordance with section 552a of title 5, United
14 States Code, even when the payment has been exempt
15 from offset. Where payments are made electronically, the
16 Secretary is authorized to obtain the current address of
17 the debtor/payee from the institution receiving the pay-
18 ment. Upon request by the Secretary, the institution re-
19 ceiving the payment shall report the current address of
20 the debtor/payee to the Secretary.

21 “(6) The Secretary of the Treasury is authorized to
22 prescribe such rules, regulations, and procedures as the
23 Secretary of the Treasury deems necessary to carry out
24 the purposes of this subsection. The Secretary shall con-

1 sult with the heads of affected agencies in the development
2 of such rules, regulations, and procedures.

3 “(7)(A) Any Federal agency that is owed by a named
4 person a past-due legally enforceable non-tax debt that is
5 over 180 days delinquent (other than any past-due sup-
6 port), including non-tax debt administered by a third
7 party acting as an agent for the Federal Government,
8 shall notify the Secretary of the Treasury of all such non-
9 tax debts for purposes of offset under this subsection.

10 “(B) An agency may delay notification under sub-
11 paragraph (A) with respect to a debt that is secured by
12 bond or other instruments in lieu of bond, or for which
13 there is another specific repayment source, in order to
14 allow sufficient time to either collect the debt through nor-
15 mal collection processes (including collection by internal
16 administrative offset) or render a final decision on any
17 protest filed against the claim.

18 “(8) The disbursing official conducting the offset
19 shall notify the payee in writing of—

20 “(A) the occurrence of an offset to satisfy a
21 past-due legally enforceable debt, including a de-
22 scription of the type and amount of the payment
23 otherwise payable to the debtor against which the
24 offset was executed;

1 “(B) the identity of the creditor agency request-
2 ing the offset; and

3 “(C) a contact point within the creditor agency
4 that will handle concerns regarding the offset.”.

5 Where the payment to be offset is a periodic benefit pay-
6 ment, the disbursing official shall take reasonable steps,
7 as determined by the Secretary of the Treasury, to provide
8 the notice to the payee not later than the date on which
9 the payee is otherwise scheduled to receive the payment,
10 or as soon as practical thereafter, but no later than the
11 date of the offset. Notwithstanding the preceding sen-
12 tence, the failure of the debtor to receive such notice shall
13 not impair the legality of such offset.

14 “(9) A levy pursuant to the Internal Revenue Code
15 of 1986 shall take precedence over requests for offset re-
16 ceived from other agencies.”.

17 (c) Section 3701(a) of title 31, United States Code,
18 is amended by adding at the end the following new para-
19 graph:

20 “(8) ‘non-tax claim’ means any claim from any
21 agency of the Federal Government other than a
22 claim by the Internal Revenue Service under the In-
23 ternal Revenue Code of 1986.”.

1 **SEC. 202. HOUSE OF REPRESENTATIVES AS LEGISLATIVE**
2 **AGENCY.**

3 (a) Section 3701(a) of title 31, United States Code,
4 is amended by adding the following new paragraphs after
5 paragraph (7):

6 “(8) For purposes of subchapters I and II of chapter
7 37 of title 31, United States Code (relating to claims of
8 or against United States Government), the United States
9 House of Representatives shall be considered to be a legis-
10 lative agency (as defined in section 3701(a)(4) of such
11 title), and the Clerk of the House of Representatives shall
12 be deemed to be the head of such legislative agency.

13 “(9) Regulations prescribed by the Clerk of the
14 House of Representatives pursuant to section 3716 of title
15 31, United States Code, shall not become effective until
16 they are approved by the Committee on Rules of the
17 House of Representatives.”.

18 **SEC. 203. EXEMPTION FROM COMPUTER MATCHING RE-**
19 **QUIREMENTS UNDER THE PRIVACY ACT OF**
20 **1974.**

21 Section 552a(a) of title 5, United States Code, is
22 amended—

23 (1) in paragraph (2), by inserting “acting in an
24 individual, not a business capacity” after “resi-
25 dence”;

26 (2) in paragraph (8)(B)—

1 (A) by striking “or” at the end of clause
2 (vi);

3 (B) by inserting “or” at the end of clause
4 (vii); and

5 (C) by adding after clause (vii) the follow-
6 ing new clause:

7 “(viii) matches for administrative off-
8 set or claims collection pursuant to sub-
9 section 3716(c) of title 31, section 5514 of
10 this title, or any other payment intercept
11 or offset program authorized by statute;”.

12 **SEC. 204. TECHNICAL AND CONFORMING AMENDMENTS.**

13 (a) Title 31, United States Code, is amended—

14 (1) in section 3322(a), by inserting “section
15 3716 and section 3720A of this title, section 6331
16 of title 26, and” after “Except as provided in”;

17 (2) in section 3325(a)(3), by inserting “or pur-
18 suant to payment intercepts or offsets pursuant to
19 section 3716 or 3720A, or pursuant to levies exe-
20 cuted under section 6331 of the Internal Revenue
21 Code of 1986 (26 U.S.C. 6331),” after “voucher”;
22 and

23 (3) in sections 3711, 3716, 3717, and 3718, by
24 striking “the head of an executive or legislative
25 agency” each place it appears and inserting instead

1 “the head of an executive, judicial, or legislative
2 agency”.

3 (b) Subsection 6103(l)(10) of title 26, United States
4 Code, is amended—

5 (1) in subparagraph (A), by inserting “and to
6 officers and employees of the Department of the
7 Treasury in connection with such reduction” adding
8 after “6402”; and

9 (2) in subparagraph (B), by adding “and to of-
10 ficers and employees of the Department of the
11 Treasury in connection with such reduction” after
12 “agency”.

13 **Subchapter B—Salary Offset Authority**

14 **SEC. 301. ENHANCEMENT OF SALARY OFFSET AUTHORITY.**

15 Section 5514 of title 5, United States Code, is
16 amended—

17 (1) in subsection (a)—

18 (A) by adding at the end of paragraph (1)
19 the following: “All Federal agencies to which
20 debts are owed and are delinquent in repay-
21 ment, shall participate in a computer match at
22 least annually of their delinquent debt records
23 with records of Federal employees to identify
24 those employees who are delinquent in repay-
25 ment of those debts. Matched Federal employee

1 records shall include, but shall not be limited
2 to, active Civil Service employees government-
3 wide, military active duty personnel, military re-
4 servists, United States Postal Service employ-
5 ees, and records of seasonal and temporary em-
6 ployees. The Secretary of the Treasury shall es-
7 tablish and maintain an interagency consortium
8 to implement centralized salary offset computer
9 matching, and promulgate regulations for this
10 program. Agencies that perform centralized sal-
11 ary offset computer matching services under
12 this subsection are authorized to charge a fee
13 sufficient to cover the full cost for such serv-
14 ices.”;

15 (B) by redesignating paragraphs (3) and
16 (4) as paragraphs (4) and (5), respectively;

17 (C) by inserting after paragraph (2) the
18 following new paragraph:

19 “(3) The provisions of paragraph (2) shall not
20 apply to routine intra-agency adjustments of pay
21 that are attributable to clerical or administrative er-
22 rors or delays in processing pay documents that
23 have occurred within the four pay periods preceding
24 the adjustment and to any adjustment that amounts
25 to \$50 or less, provided that at the time of such ad-

1 justment, or as soon thereafter as practical, the indi-
2 vidual is provided written notice of the nature and
3 the amount of the adjustment and a point of contact
4 for contesting such adjustment.”; and

5 (D) by amending paragraph (5)(B) (as re-
6 designated) to read as follows:

7 “(B) For purposes of this section ‘agency’
8 includes executive departments and agencies,
9 the United States Postal Service, the Postal
10 Rate Commission, the United States Senate,
11 the United States House of Representatives,
12 and any court, court administrative office, or
13 instrumentality in the judicial or legislative
14 branches of government, and government cor-
15 porations.”;

16 (2) by adding at the end of subsection (b) the
17 following new paragraphs:

18 “(3) For purposes of this section, the Clerk of
19 the House of Representatives shall be deemed to be
20 the head of the agency. Regulations prescribed by
21 the Clerk of the House of Representatives pursuant
22 to subsection (b)(1) shall be subject to the approval
23 of the Committee on Rules of the House of Rep-
24 resentatives.

1 “(4) For purposes of this section, the Secretary
 2 of the Senate shall be deemed to be the head of the
 3 agency. Regulations prescribed by the Secretary of
 4 the Senate pursuant to subsection (b)(1) shall be
 5 subject to the approval of the Committee on Rules
 6 and Administration of the Senate.”; and

7 (3) by adding after subsection (c) the following
 8 new subsection:

9 “(d) A levy pursuant to the Internal Revenue Code
 10 of 1986 shall take precedence over requests for offset re-
 11 ceived from other agencies.”.

12 **Subchapter C—Taxpayer Identifying** 13 **Numbers**

14 **SEC. 401. ACCESS TO TAXPAYER IDENTIFYING NUMBERS;** 15 **BARRING DELINQUENT DEBTORS FROM** 16 **CREDIT ASSISTANCE.**

17 Section 4 of the Debt Collection Act of 1982 (Public
 18 Law 97–365, 96 Stat. 1749, 26 U.S.C. 6103 note) is
 19 amended—

20 (1) in subsection (b), by striking “For purposes
 21 of this section” and inserting instead “For purposes
 22 of subsection (a)”;

23 (2) by adding at the end thereof the following
 24 new subsections:

1 “(c) FEDERAL AGENCIES.—Each Federal agency
2 shall require each person doing business with that agency
3 to furnish to that agency such person’s taxpayer identify-
4 ing number.

5 “(1) For purposes of this subsection, a person
6 is considered to be ‘doing business’ with a Federal
7 agency if the person is—

8 “(A) a lender or servicer in a Federal
9 guaranteed or insured loan program;

10 “(B) an applicant for, or recipient of—

11 “(i) a Federal guaranteed, insured, or
12 direct loan; or

13 “(ii) a Federal license, permit, right-
14 of-way, grant, benefit payment or insur-
15 ance;

16 “(C) a contractor of the agency;

17 “(D) assessed a fine, fee, royalty or pen-
18 alty by that agency;

19 “(E) in a relationship with a Federal agen-
20 cy that may give rise to a receivable due to that
21 agency, such as a partner of a borrower in or
22 a guarantor of a Federal direct or insured loan;
23 and

1 “(F) is a joint holder of any account to
2 which Federal benefit payments are transferred
3 electronically.

4 “(2) Each agency shall disclose to the person
5 required to furnish a taxpayer identifying number
6 under this subsection its intent to use such number
7 for purposes of collecting and reporting on any de-
8 linquent amounts arising out of such persons’s rela-
9 tionship with the government.

10 “(3) For purposes of this subsection:

11 “(A) The term ‘taxpayer identifying num-
12 ber’ has the meaning given such term in section
13 6109 of title 26, United States Code.

14 “(B) The term ‘person’ means an individ-
15 ual, sole proprietorship, partnership, corpora-
16 tion, nonprofit organization, or any other form
17 of business association, but with the exception
18 of debtors owing claims resulting from petro-
19 leum pricing violations does not include debtors
20 under third party claims of the United States.

21 “(d) ACCESS TO SOCIAL SECURITY NUMBERS.—Not-
22 withstanding section 552a of title 5, United States Code,
23 creditor agencies to which a delinquent claim is owed, and
24 their agents, may match their debtor records with the So-
25 cial Security Administration records to verify name, name

1 control, Social Security number, address, and date of
2 birth.”.

3 **SEC. 402. BARRING DELINQUENT FEDERAL DEBTORS FROM**
4 **OBTAINING FEDERAL LOANS OR LOAN GUAR-**
5 **ANTEES.**

6 (a) Title 31, United States Code, is amended by add-
7 ing after section 3720A the following new section:

8 **“§ 3720B. Barring delinquent Federal debtors from**
9 **obtaining Federal loans or loan guaran-**
10 **tees**

11 “(a) Unless waived by the head of the agency, no per-
12 son may obtain any Federal financial assistance in the
13 form of a loan or a loan guarantee if such person has an
14 outstanding Federal non-tax debt which is in a delinquent
15 status, as determined under the standards prescribed by
16 the Secretary of the Treasury, with a Federal agency. Any
17 such person may obtain additional Federal financial as-
18 sistance only after such delinquency is resolved, pursuant
19 to these standards. This section shall not apply to loans
20 or loan guarantees where a statute specifically permits ex-
21 tension of Federal financial assistance to borrowers in de-
22 linquent status.

23 “(b) The head of the agency may delegate the waiver
24 authority described in subsection (a) to the Chief Finan-
25 cial Officer of the agency. The waiver authority may be

1 redelegated only to the Deputy Chief Financial Officer of
2 the agency.

3 “(c) For purposes of this section, ‘person’ means an
4 individual; or sole proprietorship, partnership, corpora-
5 tion, non-profit organization, or any other form of busi-
6 ness association.”.

7 (b) The table of sections for subchapter II of chapter
8 37 of title 31, United States Code, is amended by inserting
9 after the item relating to section 3720A the following new
10 item:

“3720B. Barring delinquent Federal debtors from obtaining Federal loans or
loan guarantees.”.

11 **Subchapter D—Expanding Collection Au-**
12 **thorities and Governmentwide Cross-**
13 **Servicing**

14 **SEC. 501. EXPANDING COLLECTION AUTHORITIES UNDER**
15 **THE DEBT COLLECTION ACT OF 1982.**

16 (a) Subsection 8(e) of the Debt Collection Act of
17 1982 (Public Law 97–365, 31 U.S.C. 3701(d) and 5
18 U.S.C. 5514 note) is repealed.

19 (b) Section 5 of the Social Security Domestic Em-
20 ployment Reform Act of 1994 (Public Law 103–387) is
21 repealed.

22 (c) Section 631 of the Tariff Act of 1930 (19 U.S.C.
23 1631), is repealed.

24 (d) Title 31, United States Code, is amended—

1 (1) in section 3701—

2 (A) by amending subsection (a)(4) to read
3 as follows:

4 “(4) ‘executive, judicial or legislative agency’
5 means a department, military department, agency,
6 court, court administrative office, or instrumentality
7 in the executive, judicial or legislative branches of
8 government, including government corporations.”;
9 and

10 (B) by adding at the end the following new
11 subsection:

12 “(d) Sections 3711(f) and 3716–3719 of this title do
13 not apply to a claim or debt under, or to an amount pay-
14 able under, the Internal Revenue Code of 1986.”;

15 (2) by amending section 3711(f) to read as fol-
16 lows:

17 “(f)(1) When trying to collect a claim of the Govern-
18 ment, the head of an executive or legislative agency may
19 disclose to a consumer reporting agency information from
20 a system of records that an individual is responsible for
21 a claim if notice required by section 552a(e)(4) of title
22 5, United States Code, indicates that information in the
23 system may be disclosed to a consumer reporting agency.

24 “(2) The information disclosed to a consumer report-
25 ing agency shall be limited to—

1 “(A) information necessary to establish the
2 identity of the individual, including name, address
3 and taxpayer identifying number;

4 “(B) the amount, status, and history of the
5 claim; and

6 “(C) the agency or program under which the
7 claim arose.”; and

8 (3) in section 3718—

9 (A) in subsection (a), by striking the first
10 sentence and inserting instead the following:

11 “Under conditions the head of an executive, leg-
12 islative or judicial agency considers appropriate,
13 the head of an agency may make a contract
14 with a person for collection service to recover
15 indebtedness owed, or to locate or recover as-
16 sets of, the United States Government. No head
17 of an agency may enter into a contract to locate
18 or recover assets of the United States held by
19 a State government or financial institution un-
20 less that agency has established procedures ap-
21 proved by the Secretary of the Treasury to
22 identify and recover such assets.”; and

23 (B) in subsection (d), by inserting “, or to
24 locate or recover assets of,” after “owed”.

1 **SEC. 502. GOVERNMENTWIDE CROSS-SERVICING.**

2 Section 3711 of title 31, United States Code, is
3 amended by adding at the end the following new sub-
4 section:

5 “(g)(1) At the discretion of the head of an executive,
6 judicial or legislative agency, referral of a non-tax claim
7 may be made to any executive department or agency oper-
8 ating a debt collection center for servicing and collection
9 in accordance with an agreement entered into under para-
10 graph (2). Referral or transfer of a claim may also be
11 made to the Secretary of the Treasury for servicing, collec-
12 tion, compromise, and/or suspension or termination of col-
13 lection action. Non-tax claims referred or transferred
14 under this section shall be serviced, collected, com-
15 promised, and/or collection action suspended or termi-
16 nated in accordance with existing statutory requirements
17 and authorities.

18 “(2) Executive departments and agencies operating
19 debt collection centers are authorized to enter into agree-
20 ments with the heads of executive, judicial, or legislative
21 agencies to service and/or collect nontax claims referred
22 or transferred under this subsection. The heads of other
23 executive departments and agencies are authorized to
24 enter into agreements with the Secretary of the Treasury
25 for servicing or collection of referred or transferred non-
26 tax claims or other Federal agencies operating debt collec-

1 tion centers to obtain debt collection services from those
2 agencies.

3 “(3) Any agency to which non-tax claims are referred
4 or transferred under this subsection is authorized to
5 charge a fee sufficient to cover the full cost of implement-
6 ing this subsection. The agency transferring or referring
7 the non-tax claim shall be charged the fee, and the agency
8 charging the fee shall collect such fee by retaining the
9 amount of the fee from amounts collected pursuant to this
10 subsection. Agencies may agree to pay through a different
11 method, or to fund the activity from another account or
12 from revenue received from section 701. Amounts charged
13 under this subsection concerning delinquent claims may
14 be considered as costs pursuant to section 3717(e) of this
15 title.

16 “(4) Notwithstanding any other law concerning the
17 depositing and collection of Federal payments, including
18 section 3302(b) of this title, agencies collecting fees may
19 retain the fees from amounts collected. Any fee charged
20 pursuant to this subsection shall be deposited into an ac-
21 count to be determined by the executive department or
22 agency operating the debt collection center charging the
23 fee (hereafter referred to in this section as the ‘Account’).
24 Amounts deposited in the Account shall be available until
25 expended to cover costs associated with the implementa-

1 tion and operation of Governmentwide debt collection ac-
2 tivities. Costs properly chargeable to the Account include,
3 but are not limited to—

4 “(A) the costs of computer hardware and soft-
5 ware, word processing and telecommunications
6 equipment, other equipment, supplies, and furniture;

7 “(B) personnel training and travel costs;

8 “(C) other personnel and administrative costs;

9 “(D) the costs of any contract for identification,
10 billing, or collection services; and

11 “(E) reasonable costs incurred by the Secretary
12 of the Treasury, including but not limited to, serv-
13 ices and utilities provided by the Secretary, and ad-
14 ministration of the Account.

15 “(5) Not later than January 1 of each year, there
16 shall be deposited into the Treasury as miscellaneous re-
17 ceipts, an amount equal to the amount of unobligated bal-
18 ances remaining in the Account at the close of business
19 on September 30 of the preceding year minus any part
20 of such balance that the executive department or agency
21 operating the debt collection center determines is nec-
22 essary to cover or defray the costs under this subsection
23 for the fiscal year in which the deposit is made.

24 “(6)(A) The head of an executive, legislative, or judi-
25 cial agency shall transfer to the Secretary of the Treasury

1 all non-tax claims over 90 days delinquent for additional
2 collection action and/or closeout. A taxpayer identification
3 number shall be included with each claim provided if it
4 is in the agency's possession.

5 “(B) Subparagraph (A) shall not apply—

6 “(i) to claims that—

7 “(I) are in litigation or foreclosure;

8 “(II) will be disposed of under the loan
9 sales program of a federal department or agen-
10 cy within 90 days; or

11 “(III) have been referred to a private col-
12 lection contractor for collection within 90 days;

13 “(ii) to claims which may be collected after the
14 90-day period in accordance with specific statutory
15 authority or procedural guidelines, provided that the
16 head of an executive, legislative, or judicial agency
17 provides notice of such claims to the Secretary of the
18 Treasury; and

19 “(iii) to other specific class of claims as deter-
20 mined by the Secretary of the Treasury at the re-
21 quest of the head of an agency.

22 “(C) The head of an executive, legislative, or judicial
23 agency shall transfer to the Secretary of the Treasury all
24 non-tax claims on which the agency has ceased collection
25 activity. The Secretary may exempt specific classes of

1 claims from this requirement, at the request of the head
2 of an agency, or otherwise. The Secretary shall review
3 transferred claims to determine if additional collection ac-
4 tion is warranted. The Secretary may, in accordance with
5 section 6050P of title 26, United States Code, report to
6 the Internal Revenue Service on behalf of the creditor
7 agency any claims that have been discharged within the
8 meaning of such section.

9 “(7) At the end of each calendar year, the head of
10 an executive, legislative, or judicial agency which, regard-
11 ing a claim owed to the agency, is required to report a
12 discharge of indebtedness as income under the 6050P of
13 title 26, United States Code, shall either complete the ap-
14 propriate form 1099 or submit to the Secretary of the
15 Treasury such information as is necessary for the Sec-
16 retary of the Treasury to complete the appropriate form
17 1099. The Secretary of the Treasury shall incorporate this
18 information into the appropriate form and submit the in-
19 formation to the taxpayer and Internal Revenue Service.

20 “(8) To carry out the purposes of this subsection, the
21 Secretary of the Treasury is authorized—

22 “(A) to prescribe such rules, regulations, and
23 procedures as the Secretary deems necessary; and

24 “(B) to designate debt collection centers oper-
25 ated by other Federal agencies.”.

1 **SEC. 503. COMPROMISE OF CLAIMS.**

2 Section 11 of the Administrative Dispute Resolution
3 Act (Public Law 101–552, 104 Stat. 2736, 5 U.S.C. 581
4 note) is amended by adding at the end thereof the follow-
5 ing sentence: “This section shall not apply to section 8(b)
6 of this Act.”.

7 **Subchapter E—Federal Civil Monetary**
8 **Penalties**

9 **SEC. 601. ADJUSTING FEDERAL CIVIL MONETARY PEN-**
10 **ALTIES FOR INFLATION.**

11 (a) The Federal Civil Penalties Inflation Adjustment
12 Act of 1990 (Public Law 101–410, 104 Stat. 890; 28
13 U.S.C. 2461 note) is amended—

14 (1) by amending section 4 to read as follows:

15 “SEC. 4. The head of each agency shall, not later
16 than 180 days after the date of enactment of the Debt
17 Collection Improvement Act of 1995, and at least once
18 every 4 years thereafter, by regulation adjust each civil
19 monetary penalty provided by law within the jurisdiction
20 of the Federal agency, except for any penalty under title
21 26, United States Code, by the inflation adjustment de-
22 scribed under section 5 of this Act and publish each such
23 regulation in the Federal Register.”;

24 (2) in section 5(a), by striking “The adjustment
25 described under paragraphs (4) and (5)(A) of sec-

1 tion 4” and inserting “The inflation adjustment”;
 2 and

3 (3) by adding at the end the following new sec-
 4 tion:

5 “SEC. 7. Any increase to a civil monetary penalty re-
 6 sulting from this Act shall apply only to violations which
 7 occur after the date any such increase takes effect.”.

8 (b) The initial adjustment of a civil monetary penalty
 9 made pursuant to section 4 of Federal Civil Penalties In-
 10 flation Adjustment Act of 1990 (as amended by subsection
 11 (a)) may not exceed 10 percent of such penalty.

12 **Subchapter F—Gain Sharing**

13 **SEC. 701. DEBT COLLECTION IMPROVEMENT ACCOUNT.**

14 (a) Title 31, United States Code, is amended by in-
 15 serting after section 3720B the following new section:

16 **“§ 3720C. Debt Collection Improvement Account**

17 “(a)(1) There is hereby established in the Treasury
 18 a special fund to be known as the ‘Debt Collection Im-
 19 provement Account’ (hereinafter referred to as the ‘Ac-
 20 count’).

21 “(2) The Account shall be maintained and managed
 22 by the Secretary of the Treasury, who shall ensure that
 23 programs are credited with the amounts described in sub-
 24 section (b) and with allocations described in subsection
 25 (c).

1 “(b)(1) Not later than 30 days after the end of a
2 fiscal year, an agency other than the Department of Jus-
3 tice is authorized to transfer to the Account a dividend
4 not to exceed three percent of the debt collection improve-
5 ment amount as described in paragraph (3).

6 “(2) Agency transfers to the Account may include
7 collections from—

8 “(A) salary, administrative and tax referral off-
9 sets;

10 “(B) automated levy authority;

11 “(C) the Department of Justice; and

12 “(D) private collection agencies.

13 “(3) For purposes of this section, the term ‘debt col-
14 lection improvement amount’ means the amount by which
15 the collection of delinquent debt with respect to a particu-
16 lar program during a fiscal year exceeds the delinquent
17 debt baseline for such program for such fiscal year. The
18 Office of Management and Budget shall determine the
19 baseline from which increased collections are measured
20 over the prior fiscal year, taking into account the rec-
21 ommendations made by the Secretary of the Treasury in
22 consultation with creditor agencies.

23 “(c)(1) The Secretary of the Treasury is authorized
24 to make payments from the Account solely to reimburse
25 agencies for qualified expenses. For agencies with fran-

1 chise funds, payments may be credited to subaccounts des-
2 ignated for debt collection.

3 “(2) For purposes of this paragraph, the term ‘quali-
4 fied expenses’ means expenditures for the improvement of
5 tax administration and agency debt collection and debt re-
6 covery activities including, but not limited to, account
7 servicing (including cross-servicing under section 502 of
8 the Debt Collection Improvement Act of 1955), automatic
9 data processing equipment acquisitions, delinquent debt
10 collection, measures to minimize delinquent debt, asset
11 disposition, and training of personnel involved in credit
12 and debt management.

13 “(3) Payments made to agencies pursuant to para-
14 graph (1) shall be in proportion to their contributions to
15 the Account.

16 “(4)(A) Amounts in the Account shall be available
17 to the Secretary of the Treasury to the extent and in the
18 amounts provided in advance in appropriation Acts, for
19 purposes of this section. Such amounts are authorized to
20 be appropriated without fiscal year limitation.

21 “(B) As soon as practicable after the end of third
22 fiscal year after which appropriations are made pursuant
23 to this section, and every 3 years thereafter, any unappro-
24 priated balance in the account as determined by the Sec-
25 retary of the Treasury in consultation with agencies, shall

1 be transferred to the Treasury general fund as miscellane-
2 ous receipts.

3 “(d) For direct loan and loan guarantee programs
4 subject to title V of the Congressional Budget Act of 1974,
5 amounts credited in accordance with subsection (c) shall
6 be considered administrative costs and shall not be in-
7 cluded in the estimated payments to the Government for
8 the purpose of calculating the cost of such programs.

9 “(e) The Secretary of the Treasury shall prescribe
10 such rules, regulations, and procedures as the Secretary
11 deems necessary or appropriate to carry out the purposes
12 of this section.”.

13 (b) The table of sections for subchapter II of chapter
14 37 of title 31, United States Code, is amended by inserting
15 after the item relating to section 3720B the following new
16 item:

“3720C. Debt Collection Improvement Account.”.

17 **Subchapter G—Tax Refund Offset Authority**

18 **SEC. 801. OFFSET OF TAX REFUND PAYMENT BY DISBURS-** 19 **ING OFFICIALS.**

20 Section 3720A(h) of title 31, United States Code, is
21 amended to read as follows:

22 “(h)(1) The term ‘Secretary of the Treasury’ may in-
23 clude the disbursing official of the Department of the
24 Treasury.

1 “(2) The disbursing official of the Department of the
2 Treasury—

3 “(A) shall notify a taxpayer in writing of—

4 “(i) the occurrence of an offset to satisfy
5 a past-due legally enforceable non-tax debt;

6 “(ii) the identity of the creditor agency re-
7 questing the offset; and

8 “(iii) a contact point within the creditor
9 agency that will handle concerns regarding the
10 offset;

11 “(B) shall notify the Internal Revenue Service
12 on a weekly basis of—

13 “(i) the occurrence of an offset to satisfy
14 a past-due legally enforceable non-tax debt;

15 “(ii) the amount of such offset; and

16 “(iii) any other information required by
17 regulations; and

18 “(C) shall match payment records with requests
19 for offset by using a name control, taxpayer identify-
20 ing number (as defined in 26 U.S.C. 6109), and any
21 other necessary identifiers.”.

22 **SEC. 802. EXPANDING TAX REFUND OFFSET AUTHORITY.**

23 (a) Section 3720A of title 31, United States Code,
24 is amended by adding after subsection (h) the following
25 new subsection:

1 “(i) An agency subject to section 9 of the Act of May
2 18, 1933 (16 U.S.C. 831h) may implement this section
3 at its discretion.”.

4 (b) Section 6402(f) of title 26, United States Code,
5 is amended to read as follows:

6 “(f) FEDERAL AGENCY.—For purposes of this sec-
7 tion, the term ‘Federal agency’ means a department, agen-
8 cy, or instrumentality of the United States, and includes
9 a government corporation (as such term is defined in sec-
10 tion 103 of title 5, United States Code).”.

11 **SEC. 803. EXPANDING AUTHORITY TO COLLECT PAST-DUE**
12 **SUPPORT.**

13 (a) Section 3720A(a) of title 31, United States Code,
14 is amended to read as follows:

15 “(a) Any Federal agency that is owed by a named
16 person a past-due, legally enforceable debt (including past-
17 due support and debt administered by a third party acting
18 as an agent for the Federal Government) shall, in accord-
19 ance with regulations issued pursuant to subsections (b)
20 and (d), notify the Secretary of the Treasury at least once
21 a year of the amount of such debt.”.

22 (b) Section 664(a) of the Act of August 13, 1935,
23 as amended (42 U.S.C. 664(a)) is amended—

24 (1) in paragraph (1), by adding at the end
25 thereof the following: “This subsection may be im-

1 plemented by the Secretary of the Treasury in ac-
 2 cordance with section 3720A of title 31, United
 3 States Code.”; and

4 (2) in paragraph (2)(A), by adding at the end
 5 thereof the following: “This subsection may be im-
 6 plemented by the Secretary of the Treasury in ac-
 7 cordance with section 3720A of title 31, United
 8 States Code.”.

9 **Subchapter H—Definitions, Due Process**

10 **Rights, and Severability**

11 **SEC. 901. TECHNICAL AMENDMENTS TO DEFINITIONS.**

12 Section 3701 of title 31, United States Code, is
 13 amended—

14 (1) by amending subsection (a)(1) to read as
 15 follows:

16 “(1) ‘administrative offset’ means withholding
 17 money payable by the United States (including
 18 money payable by the United States on behalf of a
 19 State government) to, or held by the United States
 20 for, a person to satisfy a claim.”;

21 (2) by amending subsection (a)(4) to read as
 22 follows:

23 “(4) ‘executive, judicial, or legislative agency’
 24 means a department, agency, court, court adminis-
 25 trative office, or instrumentality in the executive, ju-

1 dicial, or legislative branches of government, includ-
2 ing government corporations.”;

3 (3) by amending subsection (b) to read as fol-
4 lows:

5 “(b)(1) The term ‘claim’ or ‘debt’ means any amount
6 of money or property that has been determined by an ap-
7 propriate official of the Federal Government to be owed
8 to the United States by a person, organization, or entity
9 other than another Federal agency. A claim includes, with-
10 out limitation, money owed on account of loans insured
11 or guaranteed by the Government, non-appropriated
12 funds, over-payments, any amount the United States is
13 authorized by statute to collect for the benefit of any per-
14 son, and other amounts of money or property due the Gov-
15 ernment.

16 “(2) For purposes of section 3716 of this title, the
17 term ‘claim’ also includes an amount of money or property
18 owed by a person to a State, the District of Columbia,
19 American Samoa, the United States Virgin Islands, the
20 Commonwealth of the Northern Mariana Islands, or the
21 Commonwealth of Puerto Rico where there is also a fed-
22 eral monetary interest or in cases of court ordered child
23 support.”;

24 (4) by adding after subsection (d) the following
25 new subsection:

1 “(e) In section 3716 of this title—

2 “(1) ‘creditor agency’ means any entity owed a
3 claim that seeks to collect that claim through admin-
4 istrative offset; and

5 “(2) ‘payment certifying agency’ means any
6 Federal department, agency, or instrumentality and
7 government corporation, that has transmitted a
8 voucher to a disbursing official for disbursement.”.

9 **SEC. 902. SEVERABILITY.**

10 If any provision of this title, or the amendments made
11 by this title, or the application of any provision to any
12 entity, person, or circumstance is for any reason adjudged
13 by a court of competent jurisdiction to be invalid, the re-
14 mainder of this title, and the amendments made by this
15 title, or its application shall not be affected.

16 **Subchapter I—Reporting**

17 **SEC. 1001. MONITORING AND REPORTING.**

18 (a) The Secretary of the Treasury, in consultation
19 with concerned Federal agencies, is authorized to establish
20 guidelines, including information on outstanding debt, to
21 assist agencies in the performance and monitoring of debt
22 collection activities.

23 (b) Not later than three years after the date of enact-
24 ment of this Act, the Secretary of the Treasury shall re-
25 port to the Congress on collection services provided by

1 Federal agencies or entities collecting debt on behalf of
2 other Federal agencies under the authorities contained in
3 section 3711(g) of title 31, United States Code, as added
4 by section 502 of this Act.

5 (c) Section 3719 of title 31, United States Code, is
6 amended—

7 (1) in subsection (a)—

8 (A) by amending the first sentence to read
9 as follows: “In consultation with the Comptrol-
10 ler General, the Secretary of the Treasury shall
11 prescribe regulations requiring the head of each
12 agency with outstanding non-tax claims to pre-
13 pare and submit to the Secretary at least once
14 a year a report summarizing the status of loans
15 and accounts receivable managed by the head of
16 the agency.”; and

17 (B) in paragraph (3), by striking “Direc-
18 tor” and inserting “Secretary”; and

19 (2) in subsection (b), by striking “Director”
20 and inserting “Secretary”.

21 (d) Notwithstanding any other provision of law, the
22 Secretary of the Treasury is authorized to consolidate all
23 reports concerning debt collection into one annual report.

1 **TITLE II—JUSTICE DEBT** 2 **MANAGEMENT**

3 **Subchapter A—Private Attorneys**

4 **SEC. 1101. EXPANDED USE OF PRIVATE ATTORNEYS.**

5 (a) Section 3718(b)(1)(A) of title 31, United States
 6 Code, is amended by striking the fourth sentence.

7 (b) Sections 3 and 5 of the Federal Debt Recovery
 8 Act (Public Law 99–578, 100 Stat. 3305) are hereby re-
 9 pealed.

10 **Subchapter B—Nonjudicial Foreclosure**

11 **SEC. 1201. NONJUDICIAL FORECLOSURE OF MORTGAGES.**

12 Chapter 176 of title 28 of the United States Code
 13 is amended by adding at the end thereof the following:

14 **“Subchapter E—Nonjudicial Foreclosure**

“3401. Definitions.

“3402. Rules of construction.

“3403. Election of procedure.

“3404. Designation of foreclosure trustee.

“3405. Notice of foreclosure sale; statute of limitations.

“3406. Service of notice of foreclosure sale.

“3407. Cancellation of foreclosure sale.

“3408. Stay.

“3409. Conduct of sale; postponement.

“3410. Transfer of title and possession.

“3411. Record of foreclosure and sale.

“3412. Effect of sale.

“3413. Disposition of sale proceeds.

“3414. Deficiency judgment.

15 **“§ 3401. Definitions**

16 “As used in this subchapter—

17 “(1) ‘agency’ means—

1 “(A) an executive department as defined in
2 section 101 of title 5, United States Code;

3 “(B) an independent establishment as de-
4 fined in section 104 of title 5, United States
5 Code (except that it shall not include the Gen-
6 eral Accounting Office);

7 “(C) a military department as defined in
8 section 102 of title 5, United States Code; and

9 “(D) a wholly owned government corpora-
10 tion as defined in section 9101(3) of title 31,
11 United States Code.

12 “(2) ‘agency head’ means the head and any as-
13 sistant head of an agency, and may upon the des-
14 ignation by the head of an agency include the chief
15 official of any principal division of an agency or any
16 other employee of an agency.

17 “(3) ‘bona fide purchaser’ means a purchaser
18 for value in good faith and without notice of any ad-
19 verse claim who acquires the seller’s interest free of
20 any adverse claim.

21 “(4) ‘debt instrument’ means a note, mortgage
22 bond, guaranty or other instrument creating a debt
23 or other obligation, including any instrument incor-
24 porated by reference therein and any instrument or

1 agreement amending or modifying a debt instru-
2 ment.

3 “(5) ‘file’ or ‘filing’ means docketing, indexing,
4 recording, or registering, or any other requirement
5 for perfecting a mortgage or a judgment.

6 “(6) ‘foreclosure trustee’ means an individual,
7 partnership, association, or corporation, or any em-
8 ployee thereof, including a successor, appointed by
9 the agency head to conduct a foreclosure sale pursu-
10 ant to this subchapter.

11 “(7) ‘mortgage’ means a deed of trust, deed to
12 secure debt, security agreement, or any other form
13 of instrument under which any interest in real prop-
14 erty, including leaseholds, life estates, reversionary
15 interests, and any other estates under applicable law
16 is conveyed in trust, mortgaged, encumbered,
17 pledged or otherwise rendered subject to a lien, for
18 the purpose of securing the payment of money or the
19 performance of any other obligation.

20 “(8) ‘of record’ means an interest recorded pur-
21 suant to Federal or State statutes that provide for
22 official recording of deeds, mortgages and judg-
23 ments, and that establish the effect of such records
24 as notice to creditors, purchasers, and other inter-
25 ested persons.

1 “(9) ‘owner’ means any person who has an
2 ownership interest in property and includes heirs,
3 devisees, executors, administrators, and other per-
4 sonal representatives, and trustees of testamentary
5 trusts if the owner of record is deceased.

6 “(10) ‘sale’ means a sale conducted pursuant to
7 this subchapter, unless the context requires other-
8 wise.

9 “(11) ‘security property’ means real property,
10 or any interest in real property including leaseholds,
11 life estates, reversionary interests, and any other es-
12 tates under applicable State law that secure a mort-
13 gage.

14 **“§ 3402. Rules of construction**

15 “(a) IN GENERAL.—If an agency head elects to pro-
16 ceed under this subchapter, this subchapter shall apply
17 and the provisions of this subchapter shall govern in the
18 event of a conflict with any other provision of Federal law
19 or State law.

20 “(b) LIMITATION.—This subchapter shall not be con-
21 strued to supersede or modify the operation of—

22 “(1) the lease-back/buy-back provisions under
23 section 1985 of title 7, United States Code, or regu-
24 lations promulgated thereunder; or

1 “(2) The Multifamily Mortgage Foreclosure Act
2 of 1981 (chapter 38 of title 12, United States Code).

3 “(c) EFFECT ON OTHER LAWS.—This subchapter
4 shall not be construed to curtail or limit the rights of the
5 United States or any of its agencies—

6 “(1) to foreclose a mortgage under any other
7 provision of Federal law or State law; or

8 “(2) to enforce any right under Federal law or
9 State law in lieu of or in addition to foreclosure, in-
10 cluding any right to obtain a monetary judgment.

11 “(d) APPLICATION TO MORTGAGES.—The provisions
12 of this subchapter may be used to foreclose any mortgage,
13 whether executed prior or subsequent to the effective date
14 of this subchapter.

15 **“§ 3403. Election of procedure**

16 “(a) SECURITY PROPERTY SUBJECT TO FORE-
17 CLOSURE.—An agency head may foreclose a mortgage
18 upon the breach of a covenant or condition in a debt in-
19 strument or mortgage for which acceleration or foreclosure
20 is authorized. An agency head may not institute fore-
21 closure proceedings on the mortgage under any other pro-
22 vision of law, or refer such mortgage for litigation, during
23 the pendency of foreclosure proceedings pursuant to this
24 subchapter.

1 “(b) EFFECT OF CANCELLATION OF SALE.—If a
 2 foreclosure sale is canceled pursuant to section 3407, the
 3 agency head may thereafter foreclose on the security prop-
 4 erty in any manner authorized by law.

5 **“§ 3404. Designation of foreclosure trustee**

6 “(a) IN GENERAL.—An agency head shall designate
 7 a foreclosure trustee who shall supersede any trustee des-
 8 igned in the mortgage. A foreclosure trustee designated
 9 under this section shall have a nonjudicial power of sale
 10 pursuant to this subchapter.

11 “(b) DESIGNATION OF FORECLOSURE TRUSTEE.—

12 “(1) An agency head may designate as fore-
 13 closure trustee—

14 “(A) an officer or employee of the agency;

15 “(B) an individual who is a resident of the
 16 State in which the security property is located;
 17 or

18 “(C) a partnership, association, or corpora-
 19 tion, provided such entity is authorized to
 20 transact business under the laws of the State in
 21 which the security property is located.

22 “(2) The agency head is authorized to enter
 23 into personal services and other contracts not incon-
 24 sistent with this subchapter.

1 “(c) METHOD OF DESIGNATION.—An agency head
2 shall designate the foreclosure trustee in writing. The fore-
3 closure trustee may be designated by name, title, or posi-
4 tion. An agency head may designate one or more fore-
5 closure trustees for the purpose of proceeding with mul-
6 tiple foreclosures or a class of foreclosures.

7 “(d) AVAILABILITY OF DESIGNATION.—An agency
8 head may designate such foreclosure trustees as the agen-
9 cy head deems necessary to carry out the purposes of this
10 subchapter.

11 “(e) MULTIPLE FORECLOSURE TRUSTEES AUTHOR-
12 IZED.—An agency head may designate multiple fore-
13 closure trustees for different tracts of a secured property.

14 “(f) REMOVAL OF FORECLOSURE TRUSTEES; SUC-
15 CESSOR FORECLOSURE TRUSTEES.—An agency head
16 may, with or without cause or notice, remove a foreclosure
17 trustee and designate a successor trustee as provided in
18 this section. The foreclosure sale shall continue without
19 prejudice notwithstanding the removal of the foreclosure
20 trustee and designation of a successor foreclosure trustee.
21 Nothing in this section shall be construed to prohibit a
22 successor foreclosure trustee from postponing the fore-
23 closure sale in accordance with this subchapter.

1 **“§ 3405. Notice of foreclosure sale; statute of limita-**
2 **tions**

3 “(a) IN GENERAL.—

4 “(1) Not earlier than 21 days nor later than
5 ten years after acceleration of a debt instrument or
6 demand on a guaranty, the foreclosure trustee shall
7 serve a notice of foreclosure sale in accordance with
8 this subchapter.

9 “(2) For purposes of computing the time period
10 under paragraph (1), there shall be excluded all pe-
11 riods during which there is in effect—

12 “(A) a judicially imposed stay of fore-
13 closure; or

14 “(B) a stay imposed by section 362 of title
15 11, United States Code.

16 “(3) In the event of partial payment or written
17 acknowledgement of the debt after acceleration of
18 the debt instrument, the right to forecloseure shall
19 be deemed to accrue again at the time of each such
20 payment or acknowledgement.

21 “(b) NOTICE OF FORECLOSURE SALE.—The notice
22 of foreclosure sale shall include the following:

23 “(1) the name, title, and business address of
24 the foreclosure trustee as of the date of the notice;

1 “(2) the names of the original parties to the
2 debt instrument and the mortgage, and any assign-
3 ees of the mortgagor of record;

4 “(3) the street address or location of the secu-
5 rity property, and a generally accepted designation
6 used to describe the security property, or so much
7 thereof as is to be offered for sale, sufficient to iden-
8 tify the property to be sold;

9 “(4) the date of the mortgage, the office in
10 which the mortgage is filed, and the location of the
11 filing of the mortgage;

12 “(5) the default or defaults upon which fore-
13 closure is based, and the date of the acceleration of
14 the debt instrument;

15 “(6) the date, time, and place of the foreclosure
16 sale;

17 “(7) a statement that the foreclosure is being
18 conducted in accordance with this subchapter;

19 “(8) the types of costs, if any, to be paid by the
20 purchaser upon transfer of title; and

21 “(9) the terms and conditions of sale, including
22 the method and time of payment of the foreclosure
23 purchase price.

1 **“§ 3406. Service of notice of foreclosure sale**

2 “(a) RECORD NOTICE.—At least 21 days prior to the
3 date of the foreclosure sale, the notice of foreclosure sale
4 required by section 3405 shall be filed in the manner au-
5 thorized for filing a notice of an action concerning real
6 property according to the law of the State where the secu-
7 rity property is located or, if none, in the manner author-
8 ized by section 3201 of this chapter.

9 “(b) NOTICE BY MAIL.—

10 “(1) At least 21 days prior to the date of the
11 foreclosure sale, the notice set forth in section 3405
12 shall be sent by registered or certified mail, return
13 receipt requested—

14 “(A) to the current owner of record of the
15 security property as the record appears on the
16 date that the notice of foreclosure sale is re-
17 corded pursuant to subsection (a);

18 “(B) to all debtors, including the mortga-
19 gor, assignees of the mortgagor and guarantors
20 of the debt instrument;

21 “(C) to all persons having liens, interests
22 or encumbrances of record upon the security
23 property, as the record appears on the date that
24 the notice of foreclosure sale is recorded pursu-
25 ant to subsection (a); and

1 “(D) to any occupants of the security
2 property. If the names of the occupants of the
3 security property are not known to the agency,
4 or the security property has more than one
5 dwelling unit, the notice shall be posted at the
6 security property.

7 “(2) The notice shall be sent to the debtor at
8 the address, if any, set forth in the debt instrument
9 or mortgage as the place to which notice is to be
10 sent, and if different, to the debtor’s last known ad-
11 dress as shown in the mortgage record of the agen-
12 cy. The notice shall be sent to any person other than
13 the debtor to that person’s address of record or, if
14 there is no address of record, to any address at
15 which the agency in good faith believes the notice is
16 likely to come to that person’s attention.

17 “(3) Notice by mail pursuant to this subsection
18 shall be effective upon mailing.

19 “(c) NOTICE BY PUBLICATION.—The notice of the
20 foreclosure sale shall be published at least once a week
21 for each of three successive weeks prior to the sale in at
22 least one newspaper of general circulation in any county
23 or counties in which the security property is located. If
24 there is no newspaper published at least weekly that has
25 a general circulation in at least one county in which the

1 security property is located, copies of the notice of fore-
2 closure sale shall instead be posted at least 21 days prior
3 to the sale at the courthouse of any county or counties
4 in which the property is located and the place where the
5 sale is to be held.

6 **“§ 3407. Cancellation of foreclosure sale**

7 “(a) IN GENERAL.—At any time prior to the fore-
8 closure sale, the foreclosure trustee shall cancel the sale—

9 “(1) if the debtor or the holder of any subordi-
10 nate interest in the security property tenders the
11 performance due under the debt instrument and
12 mortgage, including any amounts due because of the
13 exercise of the right to accelerate, and the expenses
14 of proceeding to foreclosure incurred to the time of
15 tender; or

16 “(2) if the security property is a dwelling of
17 four units or fewer, and the debtor:

18 “(A) pays or tenders all sums which would
19 have been due at the time of tender in the ab-
20 sence of any acceleration;

21 “(B) performs any other obligation which
22 would have been required in the absence of any
23 acceleration; and

1 “(C) pays or tenders all costs of fore-
2 closure incurred for which payment from the
3 proceeds of the sale would be allowed; or

4 “(3) for any reason approved by the agency
5 head.

6 “(b) LIMITATION.—The debtor may not, without the
7 approval of the agency head, cure the default under sub-
8 section (a)(2) if, within the preceding 12 months, the debt-
9 or has cured a default after being served with a notice
10 of foreclosure sale pursuant to this subchapter.

11 “(c) NOTICE OF CANCELLATION.—The foreclosure
12 trustee shall file a notice of the cancellation in the same
13 place and manner provided for the filing of the notice of
14 foreclosure sale under section 3406(a).

15 **“§ 3408. Stay**

16 “If, prior to the time of sale, foreclosure proceedings
17 under this subchapter are stayed in any manner, including
18 the filing of bankruptcy, no person may thereafter cure
19 the default under the provisions of section 3407(a)(2). If
20 the default is not cured at the time a stay is terminated,
21 the foreclosure trustee shall proceed to sell the security
22 property as provided in this subchapter.

23 **“§ 3409. Conduct of sale; postponement**

24 “(a) SALE PROCEDURES.—Foreclosure sale pursuant
25 to this subchapter shall be at public auction and shall be

1 scheduled to begin at a time between the hours of 9:00
2 a.m. and 4:00 p.m. local time. The foreclosure sale shall
3 be held at the location specified in the notice of foreclosure
4 sale, which shall be a location where real estate foreclosure
5 auctions are customarily held in the county or one of the
6 counties in which the property to be sold is located or at
7 a courthouse therein, or upon the property to be sold. Sale
8 of security property situated in two or more counties may
9 be held in any one of the counties in which any part of
10 the security property is situated. The foreclosure trustee
11 may designate the order in which multiple tracts of secu-
12 rity property are sold.

13 “(b) BIDDING REQUIREMENTS.—Written one-price
14 sealed bids shall be accepted by the foreclosure trustee,
15 if submitted by the agency head or other persons for entry
16 by announcement by the foreclosure trustee at the sale.
17 The sealed bids shall be submitted in accordance with the
18 terms set forth in the notice of foreclosure sale. The agen-
19 cy head or any other person may bid at the foreclosure
20 sale, even if the agency head or other person previously
21 submitted a written one-price bid. The agency head may
22 bid a credit against the debt due without the tender or
23 payment of cash. The foreclosure trustee may serve as
24 auctioneer, or may employ an auctioneer who may be paid
25 from the sale proceeds. If an auctioneer is employed, the

1 foreclosure trustee is not required to attend the sale. The
2 foreclosure trustee or an auctioneer may bid as directed
3 by the agency head.

4 “(c) POSTPONEMENT OF SALE.—The foreclosure
5 trustee shall have discretion, prior to or at the time of
6 sale, to postpone the foreclosure sale. The foreclosure
7 trustee may postpone a sale to a later hour the same day
8 by announcing or posting the new time and place of the
9 foreclosure sale at the time and place originally scheduled
10 for the foreclosure sale. The foreclosure trustee may in-
11 stead postpone the foreclosure sale for not fewer than 9
12 nor more than 31 days, by serving notice that the fore-
13 closure sale has been postponed to a specified date, and
14 the notice may include any revisions the foreclosure trust-
15 ee deems appropriate. The notice shall be served by publi-
16 cation, mailing, and posting in accordance with section
17 3406 (b) and (c), except that publication may be made
18 on any of three separate days prior to the new date of
19 the foreclosure sale, and mailing may be made at any time
20 at least 7 days prior to the new date of the foreclosure
21 sale.

22 “(d) LIABILITY OF SUCCESSFUL BIDDER WHO FAILS
23 TO COMPLY.—The foreclosure trustee may require a bid-
24 der to make a cash deposit before the bid is accepted. The
25 amount or percentage of the cash deposit shall be stated

1 by the foreclosure trustee in the notice of foreclosure sale.
2 A successful bidder at the foreclosure sale who fails to
3 comply with the terms of the sale shall forfeit the cash
4 deposit or, at the election of the foreclosure trustee, shall
5 be liable to the agency on a subsequent sale of the prop-
6 erty for all net losses incurred by the agency as a result
7 of such failure.

8 “(e) EFFECT OF SALE.—Any foreclosure sale held in
9 accordance with this subchapter shall be conclusively pre-
10 sumed to have been conducted in a legal, fair, and com-
11 mercially reasonable manner. The sale price shall be con-
12 clusively presumed to constitute the reasonably equivalent
13 value of the security property.

14 **“§ 3410. Transfer of title and possession**

15 “(a) DEED.—After receipt of the purchase price in
16 accordance with the terms of the sale as provided in the
17 notice of foreclosure sale, the foreclosure trustee shall exe-
18 cute and deliver to the purchaser a deed conveying the
19 security property to the purchaser that grants and conveys
20 title to the security property without warranty or cov-
21 enants to the purchaser. The execution of the foreclosure
22 trustee’s deed shall have the effect of conveying all of the
23 right, title, and interest in the security property covered
24 by the mortgage. Notwithstanding any other law to the
25 contrary, the foreclosure trustee’s deed shall be a convey-

1 ance of the security property and not a quitclaim. No judi-
2 cial proceeding shall be required ancillary or supple-
3 mentary to the procedures provided in this subchapter to
4 establish the validity of the conveyance.

5 “(b) DEATH OF PURCHASER PRIOR TO CONSUMMA-
6 TION OF SALE.—If a purchaser dies before execution and
7 delivery of the deed conveying the security property to the
8 purchaser, the foreclosure trustee shall execute and deliver
9 the deed to the representative of the purchaser’s estate
10 upon payment of the purchase price in accordance with
11 the terms of sale. Such delivery to the representative of
12 the purchaser’s estate shall have the same effect as if ac-
13 complished during the lifetime of the purchaser.

14 “(c) PURCHASER CONSIDERED BONA FIDE PUR-
15 CHASER WITHOUT NOTICE.—The purchaser of property
16 under this subchapter shall be presumed to be a bona fide
17 purchaser without notice of defects, if any, in the title con-
18 veyed to the purchaser.

19 “(d) POSSESSION BY PURCHASER; CONTINUING IN-
20 TERESTS.—A purchaser at a foreclosure sale conducted
21 pursuant to this subchapter shall be entitled to possession
22 upon passage of title to the security property, subject to
23 any interest or interests senior to that of the mortgage.
24 The right to possession of any person without an interest
25 senior to the mortgage who is in possession of the property

1 shall terminate immediately upon the passage of title to
 2 the security property, and the person shall vacate the secu-
 3 rity property immediately. The purchaser shall be entitled
 4 to take any steps available under Federal law or State law
 5 to obtain possession.

6 “(e) RIGHT OF REDEMPTION; RIGHT OF POSSES-
 7 SION.—This subchapter shall preempt all Federal and
 8 State rights of redemption, statutory, or common law.
 9 Upon conclusion of the public auction of the security prop-
 10 erty, no person shall have a right of redemption.

11 “(f) PROHIBITION OF IMPOSITION OF TAX ON CON-
 12 VEYANCE BY THE UNITED STATES OR AGENCY THERE-
 13 OF.—No tax, or fee in the nature of a tax, for the transfer
 14 of title to the security property by the foreclosure trustee’s
 15 deed shall be imposed upon or collected from the fore-
 16 closure trustee or the purchaser by any State or political
 17 subdivision thereof.

18 **“§ 3411. Record of foreclosure and sale**

19 “(a) RECITAL REQUIREMENTS.—The foreclosure
 20 trustee shall recite in the deed to the purchaser, or in an
 21 addendum to the foreclosure trustee’s deed, or shall pre-
 22 pare an affidavit stating—

23 “(1) the date, time, and place of sale;

1 “(2) the date of the mortgage, the office in
2 which the mortgage is filed, and the location of the
3 filing of the mortgage;

4 “(3) the persons served with the notice of fore-
5 closure sale;

6 “(4) the date and place of filing of the notice
7 of foreclosure sale under section 3406(a);

8 “(5) that the foreclosure was conducted in ac-
9 cordance with the provisions of this subchapter; and

10 “(6) the sale amount.

11 “(b) EFFECT OF RECITALS.—The recitals set forth
12 in subsection (a) shall be prima facie evidence of the truth
13 of such recitals. Compliance with the requirements of sub-
14 section (a) shall create a conclusive presumption of the
15 validity of the sale in favor of bona fide purchasers and
16 encumbrancers for value without notice.

17 “(c) DEED TO BE ACCEPTED FOR FILING.—The
18 register of deeds or other appropriate official of the county
19 or counties where real estate deeds are regularly filed shall
20 accept for filing and shall file the foreclosure trustee’s
21 deed and affidavit, if any, and any other instruments sub-
22 mitted for filing in relation to the foreclosure of the secu-
23 rity property under this subchapter.

1 **“§ 3412. Effect of sale**

2 “A sale conducted under this subchapter to a bona
3 fide purchaser shall bar all claims upon the security prop-
4 erty by—

5 “(1) any person to whom the notice of fore-
6 closure sale was mailed as provided in this sub-
7 chapter who claims an interest in the property sub-
8 ordinate to that of the mortgage, and the heir, devi-
9 see, executor, administrator, successor, or assignee
10 claiming under any such person;

11 “(2) any person claiming any interest in the
12 property subordinate to that of the mortgage, if such
13 person had actual knowledge of the sale;

14 “(3) any person so claiming, whose assignment,
15 mortgage, or other conveyance was not filed in the
16 proper place for filing, or whose judgment or decree
17 was not filed in the proper place for filing, prior to
18 the date of filing of the notice of foreclosure sale as
19 required by section 3406(a), and the heir, devisee,
20 executor, administrator, successor, or assignee of
21 such a person; or

22 “(4) any other person claiming under a statu-
23 tory lien or encumbrance not required to be filed
24 and attaching to the title or interest of any person
25 designated in any of the foregoing subsections of
26 this section.

1 **“§ 3413. Disposition of sale proceeds**

2 “(a) DISTRIBUTION OF SALE PROCEEDS.—The fore-
3 closure trustee shall distribute the proceeds of the fore-
4 closure sale in the following order—

5 “(1)(A) to pay the commission of the fore-
6 closure trustee, other than an agency employee, the
7 greater of—

8 “(i) the sum of—

9 “(I) 3 percent of the first \$1,000 col-
10 lected, plus

11 “(II) 1.5 percent on the excess of any
12 sum collected over \$1,000; or

13 “(ii) \$250; and

14 “(B) the amounts described in subparagraph
15 (A)(i) shall be computed on the gross proceeds of all
16 security property sold at a single sale;

17 “(2) to pay the expense of any auctioneer em-
18 ployed by the foreclosure trustee, if any, except that
19 the commission payable to the foreclosure trustee
20 pursuant to paragraph (1) shall be reduced by the
21 amount paid to an auctioneer, unless the agency
22 head determines that such reduction would adversely
23 affect the ability of the agency head to retain quali-
24 fied foreclosure trustees or auctioneers;

25 “(3) to pay for the costs of foreclosure, includ-
26 ing—

1 “(A) reasonable and necessary advertising
2 costs and postage incurred in giving notice pur-
3 suant to section 3406;

4 “(B) mileage for posting notices and for
5 the foreclosure trustee’s or auctioneer’s attend-
6 ance at the sale at the rate provided in section
7 1921 of title 28, United States Code, for mile-
8 age by the most reasonable road distance;

9 “(C) reasonable and necessary costs actu-
10 ally incurred in connection with any search of
11 title and lien records; and

12 “(D) necessary costs incurred by the fore-
13 closure trustee to file documents;

14 “(4) to pay valid real property tax liens or as-
15 sessments, if required by the notice of foreclosure
16 sale;

17 “(5) to pay any liens senior to the mortgage, if
18 required by the notice of foreclosure sale;

19 “(6) to pay service charges and advancements
20 for taxes, assessments, and property insurance pre-
21 miums; and

22 “(7) to pay late charges and other administra-
23 tive costs and the principal and interest balances se-
24 cured by the mortgage, including expenditures for
25 the necessary protection, preservation, and repair of

1 the security property as authorized under the debt
2 instrument or mortgage and interest thereon if pro-
3 vided for in the debt instrument or mortgage, pursu-
4 ant to the agency's procedure.

5 “(b) INSUFFICIENT PROCEEDS.—In the event there
6 are no proceeds of sale or the proceeds are insufficient
7 to pay the costs and expenses set forth in subsection (a),
8 the agency head shall pay such costs and expenses as au-
9 thorized by applicable law.

10 “(c) SURPLUS MONIES.—

11 “(1) After making the payments required by
12 subsection (a), the foreclosure trustee shall—

13 “(A) distribute any surplus to pay liens in
14 the order of priority under Federal law or the
15 law of the State where the security property is
16 located; and

17 “(B) pay to the person who was the owner
18 of record on the date the notice of foreclosure
19 sale was filed the balance, if any, after any pay-
20 ments made pursuant to paragraph (1).

21 “(2) If the person to whom such surplus is to
22 be paid cannot be located, or if the surplus available
23 is insufficient to pay all claimants and the claimants
24 cannot agree on the distribution of the surplus, that
25 portion of the sale proceeds may be deposited by the

1 foreclosure trustee with an appropriate official au-
2 thorized under law to receive funds under such cir-
3 cumstances. If such a procedure for the deposit of
4 disputed funds is not available, and the foreclosure
5 trustee files a bill of interpleader or is sued as a
6 stakeholder to determine entitlement to such funds,
7 the foreclosure trustee's necessary costs in taking or
8 defending such action shall be deducted first from
9 the disputed funds.

10 **“§ 3414. Deficiency judgment**

11 “(a) IN GENERAL.—If after deducting the disburse-
12 ments described in section 3413, the price at which the
13 security property is sold at a foreclosure sale is insufficient
14 to pay the unpaid balance of the debt secured by the secu-
15 rity property, counsel for the United States may com-
16 mence an action or actions against any or all debtors to
17 recover the deficiency, unless specifically prohibited by the
18 mortgage. The United States is also entitled to recover
19 any amount authorized by section 3011 and costs of the
20 action.

21 “(b) LIMITATION.—Any action commenced to recover
22 the deficiency shall be brought within 6 years of the last
23 sale of security property.

24 “(c) CREDITS.—The amount payable by a private
25 mortgage guaranty insurer shall be credited to the account

1 of the debtor prior to the commencement of an action for
 2 any deficiency owed by the debtor. Nothing in this sub-
 3 section shall curtail or limit the subrogation rights of a
 4 private mortgage guaranty insurer.”.

5 **TITLE III—IRS LEVY AUTHORITY**

6 **Subchapter A—Amendments To The Internal**

7 **Revenue Code of 1986**

8 **SEC. 1301. PROVISION FOR CONTINUOUS LEVY.**

9 Section 6331 of the Internal Revenue Code of 1986
 10 (26 U.S.C. 6331) is amended—

11 (1) by redesignating subsection (h) as sub-
 12 section (i); and

13 (2) by inserting after subsection (g) the follow-
 14 ing new subsection:

15 “(h) CONTINUING LEVY ON NON-MEANS TESTED
 16 FEDERAL PAYMENTS.—The effect of a levy on non-means
 17 tested Federal payments to or received by a taxpayer shall
 18 be continuous from the date such levy is first made until
 19 such levy is released. Notwithstanding section 6334, such
 20 levy shall attach up to 15 percent of any salary or pension
 21 payment due to the taxpayer. For the purposes of this
 22 subsection, the term ‘non-means tested Federal payment’
 23 refers to a Federal payment for which eligibility is not
 24 based on the income and/or assets of a payee.”.

1 **SEC. 1302. MODIFICATION OF LEVY EXEMPTION.**

2 Section 6334 of the Internal Revenue Code of 1986
3 (26 U.S.C. 6334) is amended by adding at the end the
4 following new subsection:

5 “(f) LEVY ALLOWED ON CERTAIN NON-MEANS
6 TESTED FEDERAL PAYMENTS.—Non-means tested
7 amounts—

8 “(1) described in subsections (a)(7) and (a)(9)
9 of this section; and

10 “(2) annuity or pension payments under the
11 Railroad Retirement Act and benefits under the
12 Railroad Unemployment Insurance Act described in
13 subsection (a)(6) of this section,
14 shall not be exempt from levy if the Secretary approves
15 the levy of such property.”.

16 **SEC. 1303. CONFIDENTIALITY AND DISCLOSURE OF RE-**
17 **TURNS AND RETURN INFORMATION.**

18 (a) Section 6103 of the Internal Revenue Code of
19 1986 (26 U.S.C. 6103) is amended by adding at the end
20 of subsection (k) the following new paragraph:

21 “(8) LEVIES ON CERTAIN GOVERNMENT PAY-
22 MENTS.—

23 “(A) DISCLOSURE OF RETURN INFORMA-
24 TION IN LEVIES ON FINANCIAL MANAGEMENT
25 SERVICE.—The Secretary may disclose to offi-
26 cers and employees of the Financial Manage-

1 ment Service return information, including tax-
2 payer identity information, the amount of any
3 unpaid liability under this title (including pen-
4 alties and interest), and the type of tax and tax
5 period to which such unpaid liability relates, in
6 serving a notice of levy, or release of such levy,
7 with respect to any applicable government pay-
8 ment.

9 “(B) RESTRICTION ON USE OF DISCLOSED
10 INFORMATION.—Return information disclosed
11 under subparagraph (A) may be used by offi-
12 cers and employees of the Financial Manage-
13 ment Service only for the purpose of, and to the
14 extent necessary in, transferring levied funds in
15 satisfaction of the levy, maintaining appropriate
16 agency records in regard to such levy or the re-
17 lease thereof, notifying the taxpayer and the
18 agency certifying such payment that the levy
19 has been honored, or in the defense of any liti-
20 gation ensuing from the honor of such levy.

21 “(C) APPLICABLE GOVERNMENT PAY-
22 MENT.—For purposes of this paragraph, the
23 term ‘applicable government payment’ means
24 any non-means tested Federal payment, as de-
25 fined in section 6331(h) certified to the Finan-

1 cial Management Service for disbursement and
 2 any other payment certified to the Financial
 3 Management Service for disbursement and
 4 which the Commissioner designates by pub-
 5 lished notice.”.

6 (b) Section 6301(p) of the Internal Revenue Code of
 7 1986 (26 U.S.C. 6301(p)), is amended—

8 (1) in paragraph (3)(A), by inserting “(8)”
 9 after “(6),”; and

10 (2) in paragraph (4), by inserting “(k)(8),”
 11 after “(j) (1) or (2),”.

12 (c) Section 552a(a)(8)(B) of title 5, United States
 13 Code, is amended by adding at the end the following new
 14 clause:

15 “(ix) matches performed incident to a
 16 levy described in section 6103(k)(8) of the
 17 Internal Revenue Code of 1986.”.

○

S 1234 IS—2

S 1234 IS—3

S 1234 IS—4

S 1234 IS—5

S 1234 IS—6